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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,879	08/21/2003	Julian P. Trangsrud	20030159.ORI	1023
23595	7590	08/19/2005	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			KRECK, JOHN J	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,879

Applicant(s)

TRANGSRUD, JULIAN P.

Examiner

John Kreck

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/25/05 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (U.S. Patent number 3,363,876) in view of Ditcher (U.S. Patent number 4,565,347).

Moore discloses a manhole base molding apparatus 78 (see Figs.5-7) comprising an invert mold 82 having an invert pipe portion 84. Moore further discloses a hole former 88 having an alignment member 86 with an aperture along the central axis of the alignment member 86 that receives a bar or bolt 100 for aligning the hole former 88 with the invert mold 82. Moore illustrates a recessed portion of the invert mold 82 wherein the bar or bolt 100 is inserted for subsequent alignment of the hole former with

the invert mold 82. The hole former has a male portion that mates with a female portion of the alignment member (see Fig.7).

However, Moore fails to disclose that the invert mold has a tube aligned on the central axis of the invert pipe portion. Moore also fails to disclose that the hole former has a female portion that mates with a male portion of the alignment member.

Ditcher discloses a precast invert system for creating a manhole comprising an invert forming mold member 14 with a tube or internal guideway 29 aligned on the central axis of the invert pipe portion (see Fig.3), a hole former 16, and a bar or pin 26 for inserting in the tube 29 for aligning the hole former with the invert mold. Ditcher's tube or internal guideway 29 has an aperture along the length of the central axis through the alignment member wherein the pin 26 is inserted. '

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the molding apparatus of Moore to incorporate a tube aligned on the central axis of the invert pipe portion for purposes of alignment, as taught by Ditcher, because both invention suggest alignment bars and tubes or apertures for guiding the alignment bars within portions of the mold to ultimately end up with aligned openings within a manhole. Moore simply chose to locate his alignment bar off center relative to the invert mold, as opposed to Ditcher's centrally located alignment bar. Ultimately, the functional principles are the same and the locations are merely issues of design choice.

With regards to the new limitations added in the amendment filed 4/25/05: The Moore reference fails to disclose any specific distance for the extent of the tube, but it can be presumed to be of sufficient distance to result in a desirable aligned hole: the

patented invention is presumed to be operable; and is presumed to achieve a "desirable" result; thus meeting the new limitation of the tube extending a sufficient distance such that a desirably aligned hole results.

Alternatively, if it is deemed that Moore fails to disclose the tube extending a sufficient distance; such a length would have been obvious in light of the teaching of Ditcher: Ditcher discloses (col. 4, lines 57-60) that the gasket ring assembly (16-meeting the claim limitation of "hole former", also including the) is described in detail in application 234,639, which was incorporated by reference. Turning to that application (in the form of U.S. Patent number 4,422,994) the following text is found on column 9, lines 15-20:

"The registration pins 14g and 14h which cooperate with the central openings 16c in the gasket retaining assemblies 16, 16 **assure precise alignment** between sidewall openings 38 and 39 and invert 35, thereby assuring smooth, non-turbulent flow"
[emphasis added]

Official Notice is taken of the fact that it is well known in the mechanical arts that a longer hole or tube will result in more precise alignment of a bar or bolt which passes through it; thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Moore tube to have sufficient extent to result in precise alignment as called for in the new limitation.

Regarding claim 2, Moore discloses a manhole base molding apparatus wherein the hole former 88 and alignment member 86 are integral or formed as a unit with each other.

Regarding claim 3, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the molding apparatus of Moore to incorporate a hole former with a female portion that mates with a male portion of the alignment member because Moore clearly illustrates a hole former with a male portion that mates with a female portion of the alignment member. Reversal of the female and male portions, as claimed by the applicant of the present invention, is merely a matter of design choice.

Regarding claim 4, Moore discloses a manhole base molding apparatus wherein a bolt 100 comprises a threaded portion that engages a threaded nut in the recessed portion of the invert mold 82 (see Fig.7).

Regarding claim 5, Moore discloses a manhole base molding apparatus wherein the alignment member 86 functions as a spacer portion for extending the hole formed by the hole former to the invert mold 82.

Response to Arguments


3. Applicant's arguments filed 4/25/05 have been fully considered but they are not persuasive. Applicant has argued that since a rejection was not previously made concerning the extent of the tube; the claims must now be allowable. This is not persuasive, since this subject matter was not previously claimed; and thus could not have been properly evaluated.

4. It is noted that applicant has not made any arguments concerning the other claimed features; nor has applicant made any arguments concerning the appropriateness of the obviousness rejection/combination of Moore and Ditcher.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on M-F 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Kreck
Primary Examiner
Art Unit 3673

17 August 2005